

SENATE BILL 504

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2003 Regular Session
(3lr1458)

ENROLLED BILL
-- Finance/Economic Matters --

Introduced by **Senators Klausmeier, Exum, Pipkin, Middleton, Gladden, and Kelley**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this
____ day of _____ at _____ o'clock, ____ M.

President.

CHAPTER _____

1 AN ACT concerning

2 **Electricity - Universal Service Program - Extension and Funding**

3 FOR the purpose of continuing a certain electric universal service charge at a certain
4 level for certain purposes; providing assistance for the retirement of certain
5 arrears for certain electric customers, subject to a certain limitation;
6 authorizing the waiver of a certain income eligibility limitation for certain
7 electric customers under certain circumstances; requiring the Public Service
8 Commission to make certain recommendations based on certain factors in a
9 report each year to the General Assembly; repealing a provision providing for
10 the determination of a certain charge for certain purposes only after
11 recommendation by the Commission and enactment of legislation; requiring the
12 Office of Home Energy Programs to report certain information to the
13 Commission; requiring the Office of Legislative Audits to perform certain audits
14 of the universal service program at certain intervals; *providing for the funding*
15 *of the audits;* requiring the initial audit to be completed on or before a certain
16 date; providing for the retention of certain funds in the universal service

1 program fund for certain purposes for certain periods; providing for the return of
2 certain funds to certain electric customer classes in a certain proportion and a
3 certain manner after a certain period; making stylistic changes; providing for
4 the effective date of a portion of this Act; and generally relating to the electric
5 universal service program and the universal service program fund.

6 BY repealing and reenacting, without amendments,
7 Article - Public Utility Companies
8 Section 7-512.1(g) and (h)(1) through (4)
9 Annotated Code of Maryland
10 (1998 Volume and 2002 Supplement)

11 BY repealing and reenacting, with amendments,
12 Article - Public Utility Companies
13 Section 7-512.1(a), (b), (c), (d), and (h)(5)
14 Annotated Code of Maryland
15 (1998 Volume and 2002 Supplement)

16 BY repealing
17 Article - Public Utility Companies
18 Section 7-512.1(e) and (f)
19 Annotated Code of Maryland
20 (1998 Volume and 2002 Supplement)

21 BY renumbering
22 Article - Public Utility Companies
23 Section 7-512.1(g) and (h), respectively
24 to be Section 7-512.1(e) and (f), respectively
25 Annotated Code of Maryland
26 (1998 Volume and 2002 Supplement)

27 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
28 MARYLAND, That the Laws of Maryland read as follows:

29 **Article - Public Utility Companies**

30 7-512.1.

31 (a) (1) The Commission shall establish a universal service program to assist
32 electric customers with annual incomes at or below 150% of the federal poverty level.

33 (2) The Department of Human Resources shall be responsible for
34 administering the universal service program through the [Maryland Energy
35 Assistance Program] OFFICE OF HOME ENERGY PROGRAMS.

1 (3) The Department of Human Resources may, with input from a panel
 2 or roundtable of interested parties, contract with a for-profit or a nonprofit Maryland
 3 corporation existing as of July 1, 1999 to assist in administering the universal service
 4 program.

5 (4) The Commission shall have oversight responsibility for the universal
 6 service program.

7 (5) The components of the universal service program shall include:

8 (i) bill assistance, at a minimum of 50% of the determined need;

9 (ii) low-income weatherization; and

10 (iii) the retirement of arrearages ~~that were incurred prior to the~~
 11 ~~initial implementation date~~ FOR ELECTRIC CUSTOMERS WHO HAVE NOT PREVIOUSLY
 12 RECEIVED ASSISTANCE IN RETIRING ARREARAGES UNDER THE UNIVERSAL SERVICE
 13 PROGRAM, NOT TO EXCEED A TOTAL OF \$1.5 MILLION IN ANY GIVEN FISCAL YEAR.

14 (6) IN A SPECIFIC CASE, THE UNIVERSAL SERVICE PROGRAM MAY
 15 WAIVE THE INCOME ELIGIBILITY LIMITATION UNDER PARAGRAPH (1) OF THIS
 16 SUBSECTION IN ORDER TO PROVIDE ASSISTANCE TO AN ELECTRIC CUSTOMER WHO
 17 WOULD QUALIFY FOR A SIMILAR WAIVER UNDER THE MARYLAND ENERGY
 18 ASSISTANCE PROGRAM ESTABLISHED UNDER ARTICLE 41, § 6-406 OF THE CODE.

19 (b) (1) (i) All customers [will] SHALL contribute to the funding of the
 20 universal service program through a charge collected by each electric company.

21 (ii) In the first 6 months after the initial implementation date, the
 22 Commission shall consider adjustments to the charges collected for the universal
 23 service program for persons that are not eligible for customer choice.

24 (2) The Commission shall determine a fair and equitable allocation for
 25 collecting the charges among all customer classes pursuant to subsection (d) of this
 26 section.

27 (3) [Any] IN ACCORDANCE WITH SUBSECTION ~~(F)(5)(H)~~ (F)(5) OF THIS
 28 SECTION, ANY unexpended universal service program funds returned to customers
 29 under subsection [(h)] (F) of this section shall be returned to EACH customer
 30 [classes] CLASS AS A CREDIT in the same [proportions as they were collected]
 31 PROPORTION THAT THE CUSTOMER CLASS CONTRIBUTED CHARGES TO THE FUND.

32 (4) An electric company shall recover universal service program costs in
 33 accordance with § 7-512 of this subtitle.

34 (5) The Commission shall determine the allocation of the universal
 35 service charge among the generation, transmission, and distribution rate components
 36 of all classes.

1 (6) The Commission may not assess the universal service surcharge on a
2 per kilowatt-hour basis.

3 (c) (1) On or before December 1[, 1999, and on an annual basis thereafter]
4 OF EACH YEAR, the Commission shall report, subject to § 2-1246 of the State
5 Government Article, to the General Assembly on the universal service program,
6 including:

7 (±) (I) subject to [subsections (d) and (e)] SUBSECTION (D) of this
8 section, a recommendation on the total amount of funds for the program for the
9 following fiscal year BASED ON:

10 (±) 1. THE LEVEL OF PARTICIPATION IN AND THE AMOUNTS
11 EXPENDED FROM THE UNIVERSAL SERVICE PROGRAM DURING THE PRECEDING
12 FISCAL YEAR;

13 (±) 2. HOW PAYMENTS TO CUSTOMERS WERE CALCULATED
14 DURING THE PRECEDING FISCAL YEAR;

15 (±) 3. THE PROJECTED NEEDS OF THE UNIVERSAL SERVICE
16 PROGRAM FOR THE NEXT FISCAL YEAR; AND

17 (±) 4. THE AMOUNT OF ANY SURPLUS CARRIED OVER IN THE
18 UNIVERSAL SERVICE PROGRAM FUND UNDER SUBSECTION (F)(5)(I) OF THIS SECTION;

19 (±) (II) for bill assistance:

20 (±) 1. the total amount of need, as determined by the
21 Commission, for electric customers with annual incomes at or below 150% of the
22 federal poverty level and the basis for this determination; and

23 (±) 2. the percentage of need, as determined by the Commission,
24 but at a minimum of 50%, that should be funded through the universal service
25 program and the basis for this determination;

26 (±) (III) for low-income weatherization, the amount of funds needed, as
27 determined by the Commission, for measures that reduce consumption of energy by
28 electric customers with annual incomes at or below 150% of the federal poverty level
29 and the basis for this determination;

30 (±) (IV) the amount of funds needed, as determined by the Commission,
31 to retire arrearages ~~that were incurred prior to the initial implementation date by~~
32 ~~FOR~~ electric customers with annual incomes at or below 150% of the federal poverty
33 level WHO HAVE NOT PREVIOUSLY RECEIVED ASSISTANCE IN RETIRING
34 ARREARAGES UNDER THE UNIVERSAL SERVICE PROGRAM and the basis for this
35 determination;

36 (V) THE AMOUNT OF FUNDS NEEDED, AS DETERMINED BY THE
37 COMMISSION, FOR BILL ASSISTANCE, LOW-INCOME WEATHERIZATION, AND
38 ARREARAGE RETIREMENT, RESPECTIVELY, FOR CUSTOMERS FOR WHOM INCOME

1 LIMITATIONS MAY BE WAIVED UNDER SUBSECTION (A)(6) OF THIS SECTION, AND THE
 2 BASIS FOR EACH DETERMINATION;

3 ~~(5)~~ (VI) the impact on customers' rates, including the allocation among
 4 customer classes, from collecting the total amount recommended by the Commission
 5 under item ~~(4)~~ (I) of this ~~subsection~~ PARAGRAPH; and

6 ~~(6)~~ (VII) the impact of using other federal poverty level benchmarks on
 7 costs and the effectiveness of the universal service program.

8 (2) (I) TO ASSIST THE COMMISSION IN PREPARING ITS
 9 RECOMMENDATIONS UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE OFFICE OF
 10 HOME ENERGY PROGRAMS SHALL REPORT TO THE COMMISSION EACH YEAR ON:

11 1. THE NUMBER OF CUSTOMERS AND THE AMOUNT OF
 12 DISTRIBUTIONS MADE TO FUEL CUSTOMERS UNDER THE MARYLAND ENERGY
 13 ASSISTANCE PROGRAM ESTABLISHED UNDER ARTICLE 41, § 6-406 OF THE CODE,
 14 IDENTIFIED BY FUNDING SOURCE AND FUEL SOURCE; AND

15 2. THE COST OF OUTREACH AND EDUCATION MATERIALS
 16 PROVIDED BY THE OFFICE OF HOME ENERGY PROGRAMS FOR THE UNIVERSAL
 17 SERVICE PROGRAM.

18 (II) THE OFFICE OF HOME ENERGY PROGRAMS MAY SATISFY THE
 19 REPORTING REQUIREMENT OF SUBPARAGRAPH (I)1 OF THIS PARAGRAPH BY
 20 PROVIDING THE COMMISSION WITH A COPY OF MATERIAL THAT CONTAINS THE
 21 REQUIRED INFORMATION AND THAT THE OFFICE OF HOME ENERGY PROGRAMS
 22 SUBMITS TO A UNIT OF THE FEDERAL GOVERNMENT.

23 (III) THE COMMISSION SHALL INCLUDE THE INFORMATION
 24 PROVIDED BY THE OFFICE OF HOME ENERGY PROGRAMS UNDER SUBPARAGRAPH (I)
 25 OF THIS PARAGRAPH IN ITS REPORT TO THE GENERAL ASSEMBLY UNDER
 26 PARAGRAPH (1) OF THIS SUBSECTION.

27 (3) (I) THE OFFICE OF LEGISLATIVE AUDITS SHALL CONDUCT A
 28 PERFORMANCE AUDIT OF THE UNIVERSAL SERVICE PROGRAM AT LEAST ONCE
 29 EVERY 3 YEARS OR AT ANOTHER INTERVAL AS DIRECTED BY THE JOINT AUDIT
 30 COMMITTEE AND SHALL REPORT THE RESULTS OF THE AUDIT TO THE GENERAL
 31 ASSEMBLY.

32 (II) THE COST OF THE PERFORMANCE AUDIT UNDER THIS
 33 PARAGRAPH SHALL BE INCLUDED IN THE COSTS OF ADMINISTERING THE
 34 UNIVERSAL SERVICE PROGRAM, AND FUNDED THROUGH THE UNIVERSAL SERVICE
 35 PROGRAM FUND UNDER SUBSECTION (F) OF THIS SECTION.

36 (d) The total amount of funds to be collected for the universal service program
 37 [in each of the 3 years following the initial implementation date] EACH YEAR shall be
 38 \$34,000,000, allocated in the following manner:

1 (1) \$24.4 million shall be collected from the industrial and commercial
2 classes; and

3 (2) \$9.6 million shall be collected from the residential class.

4 [(e) (1) The Commission shall recommend a total amount of funds to be used
5 for the universal service program for the fourth year, and each year thereafter.

6 (2) The recommendation of the Commission may only be made after
7 consideration of:

8 (i) information related to the funding for the first 3 years;

9 (ii) the retirement, during the first 3 years, of arrearages incurred
10 prior to the initial implementation date; and

11 (iii) the amount of low-income assistance included in rates prior to
12 the initial implementation date.

13 (f) For the fourth year after the initial implementation date, and for each year
14 thereafter, the amount to be used for the universal service program, determined after
15 consideration of the recommendation of the Commission required under this section,
16 is subject to the approval of the General Assembly through the enactment of
17 legislation.]

18 (g) Notwithstanding any other provision of this article, for the 3 years
19 immediately following the initial implementation date, electricity suppliers and
20 electric companies may not terminate, for an arrearage balance due on the initial
21 implementation date, the supply of electricity to a customer who receives assistance
22 under the universal service program under this section.

23 (h) (1) In this subsection, "fund" means the universal service program fund.

24 (2) There is a universal service program fund.

25 (3) (i) 1. The Comptroller shall collect the revenue collected by
26 electric companies under subsection (b) of this section and place the revenue into the
27 fund.

28 2. The General Assembly may appropriate funds
29 supplemental to the funds collected under sub-subparagraph 1 of this subparagraph.

30 (ii) The fund is a continuing, nonlapsing fund that is not subject to
31 § 7-302 of the State Finance and Procurement Article.

32 (iii) The purpose of the fund is to assist electric customers as
33 provided in subsection (a)(1) of this section.

34 (4) The Department of Human Resources, with oversight by the
35 Commission, shall disburse the funds in accordance with the provisions of this
36 section.

1 (5) (I) AT THE END OF A GIVEN FISCAL YEAR, ANY UNEXPENDED
 2 FUNDS THAT WERE COLLECTED FOR THAT FISCAL YEAR SHALL BE RETAINED IN THE
 3 FUND AND SHALL BE MADE AVAILABLE FOR DISBURSEMENT THROUGH THE ~~END~~
 4 FIRST 3 MONTHS OF THE NEXT FISCAL YEAR TO CUSTOMERS WHO:

5 1. QUALIFY FOR ASSISTANCE FROM THE FUND DURING THE
 6 GIVEN FISCAL YEAR; ~~AND~~

7 2. APPLY FOR ASSISTANCE FROM THE FUND BEFORE THE
 8 END OF THE GIVEN FISCAL YEAR; AND

9 3. REMAIN ELIGIBLE FOR ASSISTANCE AT THE TIME
 10 SERVICES ARE PROVIDED.

11 (II) IF THE COMMISSION DETERMINES THAT AN EXTENSION IS
 12 NEEDED, THE COMMISSION MAY EXTEND UP TO AN ADDITIONAL 3 MONTHS THE
 13 PERIOD IN WHICH UNEXPENDED FUNDS MAY BE MADE AVAILABLE FOR
 14 DISBURSEMENT UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH.

15 ~~(H)~~ (III) [In any year when there are unexpended funds, those
 16 funds] ANY FUNDS COLLECTED FOR A GIVEN FISCAL YEAR THAT ARE RETAINED
 17 UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH AND THAT REMAIN UNEXPENDED AT
 18 THE END OF THE ~~NEXT FISCAL YEAR~~ PERIOD ALLOWED UNDER SUBPARAGRAPHS (I)
 19 AND (II) OF THIS PARAGRAPH shall be returned to [the customer classes proportionate
 20 to how the customer classes paid into] EACH CUSTOMER CLASS IN THE PROPORTION
 21 THAT THE CUSTOMER CLASS CONTRIBUTED CHARGES TO the fund FOR THE GIVEN
 22 FISCAL YEAR IN THE FORM OF A CREDIT TOWARD THE CHARGE ASSESSED IN THE
 23 FOLLOWING FISCAL YEAR.

24 SECTION 2. AND BE IT FURTHER ENACTED, That Section(s) 7-512.1(g)
 25 and (h), respectively, of Article - Public Utility Companies of the Annotated Code of
 26 Maryland be renumbered to be Section(s) 7-512.1(e) and (f), respectively.

27 SECTION 3. AND BE IT FURTHER ENACTED, That, notwithstanding the
 28 requirements of § 7-512.1(b)(3) and (h)(5) of the Public Utility Companies Article and
 29 § 7-512.1(f)(5) of the Public Utility Companies Article, as enacted by this Act, the
 30 Public Service Commission may retain any unexpended funds in the electric universal
 31 service program fund at the end of June 30, 2003 and make the funds available for
 32 disbursement through June 30, 2004 to electric customers who:

33 (1) qualify for assistance from the fund during fiscal year 2002 or 2003;
 34 ~~and~~

35 (2) apply for assistance from the fund before July 1, 2003; and

36 (3) remain eligible for assistance at the time services are provided.

37 SECTION 4. AND BE IT FURTHER ENACTED, That the initial performance
 38 audit of the electric universal service program under § 7-512.1(c)(3) of the Public

1 Utility Companies Article, as enacted by this Act, shall be completed on or before
2 January 7, 2004.

3 SECTION ~~4~~ 5. AND BE IT FURTHER ENACTED, That Sections ~~1 and 2~~ 1, 2,
4 and 4 of this Act shall take effect July 1, 2003.

5 SECTION ~~5~~ 6. AND BE IT FURTHER ENACTED, That, except as provided in
6 Section ~~4~~ 5 of this Act, this Act shall take effect June 30, 2003.